

REMARKS

Reconsideration of this application and entry of this Amendment is respectfully requested. Claims 1-3 and 5-7 have been amended to more precisely define the claimed invention.

Claim 1 has been amended with respect to the definition of X and formal matters.

Claims 2, 3, 5 and 7 have been amended for formal matters only.

Claims 6 and 7 have been amended to claim pharmaceutical compositions.

New claims 9-16 have been added.

New claim 9 is dependent on claim 1 and is directed to compounds wherein X represents alkanediyl.

New claims 10-12 are dependent upon claims 2, 3, and 9 respectively, and are directed to a method of treating ischemia and reperfusion damage. Support for these claims can be found in the specification at page 15, line 1 to page 16, line 2.

New claims 13-16 are dependent upon claims 1, 2, 3, and 9 respectively, and are directed to a method of treating acute myocardial infarction. Support for these claims can be found on page 16, last paragraph of the specification.

It is respectfully submitted that no new matter has been added.

The rejection of claims 1-3 and 3-8 under 35 USC §112, second paragraph, is respectfully traversed.

- a) With respect to the definition of X, claim 1 has been amended to indicate that the oxygen atom cannot be adjacent to the ring nitrogen.
- b) With respect to the term "solvate," it is respectfully submitted that this generic, conventional term is precise and definite to those skilled in the art. Moreover, the term "solvate" is also defined in the specification at page 6, lines 6-7 as follows:
Solvates in the context of the invention are those forms of the compounds which, in the solid or liquid state, form a complex by coordination with solvent molecules.
The punctuation of the last line of claims 1, 2, and 3 now clarifies that "solvate" is one separate element of each respective claim and "solvate of a salt thereof" is another separate element of each respective claim.
- c) Claim 6 as amended is directed to a pharmaceutical composition. The active compound is a component of the pharmaceutical composition which cannot be construed as other than a unitary composition.

Accordingly, it is respectfully submitted that the rejection of claims 1-3 and 5-8 under 35 USC §112, second paragraph, should be reconsidered and withdrawn.

The rejection of claim 6 under 35 USC §112, first paragraph, is respectfully traversed.

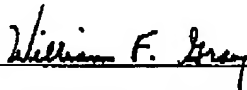
The composition of claim 6 is directed to a pharmaceutical formulation. It is respectfully submitted that the formulation proportions, dosages, and intervals of administration are routine manipulations that would be well known to those of ordinary skill in the art to whom this invention is directed. Therefore, the determination of these parameters would not require undue experimentation.

Accordingly, it is respectfully submitted that the rejection of claim 6 under 35 USC §112, first paragraph, should be reconsidered and withdrawn.

Applicants have considered the references cited to show the state-of-the-art. In view of the fact that these references have not been applied against the claims, nor do they appear relevant thereto, a detailed discussion of them shall not appear herein.

In view of the above amendments to the claims and the arguments presented herein, it is respectfully submitted that this patent application is now in condition for allowance and such favorable action is respectfully requested.

Respectively Submitted



William F. Gray
USPTO Reg. No. 31018
Attorney for Applicants

Dated: 28 Jun 2006
Bayer Pharmaceuticals Corp.
400 Morgan Lane
West Haven,
Connecticut, 06516-4175
Tel: (203) 812-2712
Fax: (203) 812-5492